

ORIGINAL

JS 44 - No. CALIF (Rev. 4/97)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

I. (a) PLAINTIFFS

U.S. Equal Employment Opportunity Commission
350 The Embarcadero, Suite 500
San Francisco, CA 94105-4000

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

J. A. Sutherland, Inc. d/b/a Taco Bell
Steven B McCarthy (Registered Agent)
100 Rio Street, Red Bluff, CA 96080

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED. Tehama

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Evangelina Fierro Hernandez, Equal Employment Opportunity
Commission, 350 The Embarcadero, Suite 500
San Francisco, CA 94105-4000 (415) 625-5622

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- (For diversity cases only)
- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 165 Other Contract <input type="checkbox"/> 165 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 760 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 883 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 850 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This action is under Title VII (1964)/Title I (1991) of the Civil Rights Act to correct unlawful employment practices on the basis of her sex and to provide appropriate relief.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$

☐ CHECK YES only if demanded in complaint:

UNDER F.R.C.P. 23

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE A "X" IN ONE BOX ONLY) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

8/2/06

ORIGINAL

FILED
05 AUG -3. AM 9:11
RICHARD W. WIEK
U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

1 WILLIAM R. TAMAYO - #084965 (CA)
JONATHAN T. PECK -- #12303 (VA)
2 EVANGELINA FIERRO HERNANDEZ -- #168879 (CA)
EQUAL EMPLOYMENT OPPORTUNITY
3 COMMISSION

San Francisco District Office
4 350 The Embarcadero, Suite 500
San Francisco, California 94105
5 Telephone: (415) 625-5622
Facsimile: (415) 625-5657

6 Attorneys for Plaintiff Equal Employment Opportunity Commission

7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

12 Plaintiff,

13 v.

14 J.A. SUTHERLAND, INC., d/b/a
15 TACO BELL,

16 Defendant.
17

Civil Action No.

COMPLAINT

Civil Rights - Employment
Discrimination

DEMAND FOR JURY TRIAL

18 NATURE OF THE ACTION

19 This action is brought pursuant to Title VII of the Civil Rights Act of 1964 and
20 Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the
21 basis of sex and to provide appropriate relief to Charging Party Amanda Manning
22 ("Charging Party Manning") who was adversely affected by such practices. Defendant
23 J.A. Sutherland Inc., d/b/a Taco Bell ("Sutherland"), subjected the Charging Party to
24 unlawful harassment based on her sex.

25 JURISDICTION AND VENUE

26 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331,
27 1337, 1343 and 1345. This action is authorized and instituted pursuant to §706(f)(1) and
28 (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and

1 (3) ("Title VII") and §102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2 2. The employment practices alleged to be unlawful were and are now being
3 committed within the jurisdiction of the United States District Court for the Northern
4 District of California, San Francisco division.

5 **INTRADISTRICT ASSIGNMENT**

6 3. This action is appropriate for assignment to San Francisco because the
7 unlawful employment practices alleged were and are being committed within Lake
8 County, the employment records relevant to the unlawful practices are located in Lake
9 County, and because Defendant's principal place of business is in Lake County.

10 **PARTIES**

11 4. Plaintiff, the Equal Employment Opportunity Commission
12 ("Commission") is the agency of the United States of America charged with the
13 administration, interpretation and enforcement of Title VII, and is expressly authorized
14 to bring this action by §706(f)(1) and (3) of Title VII, §2000-e5(f)(1) and (3).

15 5. Defendant Sutherland is a California company, doing business in the State
16 of California, in the County of Lake, and has continuously had at least 15 employees.

17 6. At all relevant times, Defendant Sutherland has continuously been an
18 employer engaged in an industry affecting commerce, within the meaning of Section
19 701(b), (g) and (h) of Title VII, 42 U.S.C. §2000-e5(b), (g) and (h).

20 9. At all relevant times, Defendant Sutherland was the sole employer of
21 Charging Party for purposes of Title VII liability.

22 **STATEMENT OF CLAIMS**

23 **CLAIM FOR RELIEF**

24 **Violation of Title VII of Civil Rights Act : Sex Discrimination, Sexual Harassment**

25 10. More than thirty days prior to the institution of this lawsuit, Charging
26 Party filed her charge with Plaintiff Commission, alleging violations of Title VII by
27 Defendant. All conditions precedent to the institution of this lawsuit have been
28 fulfilled.

1 11. Since at least December, 2003, Defendants have engaged in unlawful
2 practices of sex discrimination, in violation §703(a) of Title VII, 42 U.S.C. §2000e-2(a), by
3 subjecting the Charging Party to a sexually hostile, abusive, intimidating and offensive
4 work environment which culminated in a tangible employment action.

5 12. The effect of the actions complained of in Paragraph 11 above has been to
6 deprive the Charging Party of equal employment opportunities and has otherwise
7 adversely affected her status as an employee because of her sex.

8 13. The unlawful employment practices complained of in Paragraph 11 above
9 were intentional.

10 14. The unlawful employment practices complained of in Paragraph 11 above
11 were done with malice or with reckless indifference to the federally protected rights of
12 the Charging Party.

13 **PRAYER FOR RELIEF**

14 Wherefore, the Commission respectfully requests that this Court:

15 A. Grant a permanent injunction enjoining Defendant, its officers, successors,
16 assigns, and all persons acting in concert or participation with Defendant, from
17 engaging in discrimination against its employees, including harassment based on sex.

18 B. Order Defendant to institute and carry out policies, practices, and
19 programs which prohibit harassment based on sex and which serve to eradicate the
20 effects of their unlawful employment practices.

21 C. Order Defendant to make whole Charging Party harmed by providing
22 compensation for past and future pecuniary losses resulting from the unlawful
23 employment practices complained of above, including, but not limited to, out-of-pocket
24 expenses such as medical care necessitated by Defendant's unlawful conduct, in
25 amounts to be determined at trial.

26 D. Order Defendant to make whole Charging Party by providing
27 compensation for past and future nonpecuniary losses resulting from the unlawful
28 practices complained of above, including, but not limited to, emotional pain and

1 suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be
2 determined at trial.

3 E. Order Defendant to pay Charging Party by providing punitive damages
4 for the malicious and reckless conduct described above, in amounts to be determined at
5 trial.

6 F. Grant such further relief as the Court may deem just and proper in the
7 public interest.

8 G. Award the Commission its costs of this action.

9 **DEMAND FOR JURY TRIAL**


10 Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff
11 hereby demands a jury trial.

12 James L. Lee
13 Acting General Counsel

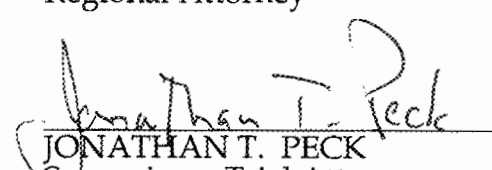
14 Gwendolyn Young Reams
15 Associate General Counsel

16 **Equal Employment Opportunity**
17 **Commission**
18 1801 L Street, N.W.
19 Washington, DC 20507

20 Date: August 2, 2006

21 
22 WILLIAM R. TAMAYO
23 Regional Attorney

24 Date: Aug 2, 2006

25 
26 JONATHAN T. PECK
27 Supervisory Trial Attorney

28 Date: 8-2, 2006


EVANGELINA FIERRO HERNANDEZ
Senior Trial Attorney

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**Equal Employment Opportunity
Commission**
San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, California 94105